

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TONIA J. SLEIGHT,

Plaintiff,

Case No. 11-13109

v.

HONORABLE AVERN COHN

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

_____ /

ORDER ADOPTING REPORT AND RECOMMENDATION (Doc. 17)
AND
DENYING THE COMMISSIONER'S MOTION FOR SUMMARY JUDGMENT (Doc. 15)
AND
GRANTING PLAINTIFF'S MOTION TO REMAND (Doc. 12)
AND
REMANDING MATTER FOR FURTHER ADMINISTRATIVE PROCEEDINGS

I.

This is a social security case. Plaintiff Tonia J. Sleight appeals from the final determination of the Commissioner of Social Security (Commissioner) that she is not disabled and therefore not entitled to disability insurance benefits. The matter was referred to a magistrate judge for all pretrial proceedings. Plaintiff filed a motion to remand. The Commissioner filed a motion for summary judgment. The magistrate judge issued a report and recommendation (MJRR) recommending that (1) the Commissioner's motion for summary judgment be denied, (2) plaintiff's motion for remand be granted and (3) the matter be remanded for further administrative proceedings under sentence four of 42 U.S.C. § 405(g).

II.

Neither party has filed objections to the MJRR and the time for filing objections has passed. The failure to file objections to the report and recommendation waives any further right to appeal. Smith v. Detroit Federation of Teachers Local 231, 829 F.2d 1370, 1373 (6th Cir.1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the motions. Thomas v. Arn, 474 U.S. 140, 149 (1985). However, the Court has reviewed the file and the MJRR and agrees with the magistrate judge. Specifically, a remand is required so that the administrative law judge may sufficiently considered plaintiff's obesity and sleep apnea.

III.

Accordingly, the findings and conclusions of the magistrate judge are ADOPTED as the findings and conclusions of the Court. The Commissioner's motion for summary judgment is DENIED. Plaintiff's motion to remand is GRANTED. This matter is REMANDED for further administrative proceedings consistent with the MJRR.

SO ORDERED.

Dated: June 4, 2012

S/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, June 4, 2012, by electronic and/or ordinary mail.

S/Julie Owens
Case Manager, (313) 234-5160